point out and distinctly claim the subject matter regarded as the invention. The first occurrence of abbreviations was said to need to be spelled out. Claim 2 was said to include two "abouts." The basis of the weight % in claim 19 was said to be unclear. The relationship of the vehicle and water in claim 23 was said to be unclear.

The rejection of claims 1, 2, 19, and 23 is traversed in view of the amendments to the claims. The first instances of volatile organic compound (VOC) component and non-volatile organic compound (non-VOC) component are spelled out in claim 1. One of the two consecutive instances of the term "about" has been cancelled in claim 2. Claim 23 has been amended to relate water to the non-VOC component.

The objection to the claim language "up to about 50 wt%" in claims 4, 6, 9, and 22 is not well taken. The range does not include zero (0). It cannot include zero because the referenced ingredient, the insect repellent, is an essential component in the claimed composition (see claim 1).

Claims 1 to 24 have been rejected under 35 U.S.C. 112, first paragraph, for lack of enablement. The relationship

between the vehicle and water was said to be beyond the scope of the specification.

Claims 1 to 24 are deemed to be enabling to one of ordinary skill in the art. The Office Action maintains that since water is within the scope of the claimed invention as a vehicle, the specification is non-enabling because a micron-sized drop would purportedly be required. This assertion is deemed conjectural and speculative. Droplet size is not deemed critical to the inclusion of water in the claimed composition. Compositions with water can be aerosolized and dispensed at supramicron-sized droplet sizes. For purposes of clarity, independent claim 1 has been amended to clarify that the claimed composition is a composition dispensable from an aerosol container.

Claims 1 to 12 and 16 to 24 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,055,299 to Dohara et al. (the Dohara Patent). Example 1 of the Dohara Patent was said to teach a composition of a pyrethroid, a non-VOC of isopropyl alcohol, a VOC ether, and water/ammonia. The methods of the invention were said to be for skin use and with perfumes.

Claims 1 to 12 and 16 to 24 patentably distinguish over the teachings of the Dohara Patent. The Office Action referred to the composition in Example 1 of the Dohara Patent. Independent claim 1 distinguishes the composition in Example 1 on at least two grounds. First, independent claim 1 requires that the composition be applied to humans. The Dohara Patent makes no reference to application to humans. The Dohara Patent refers to its disclosed compositions throughout as insecticidal compositions rather than repellent compositions, which strongly suggests that such compositions are not suited for human application. Second, independent claim 1 patentably distinguishes Example 1 based on VOC component content. Independent claim 1 requires the VOC component be not greater than about 55 wt%. Example 1 discloses an insecticidal composition having 45.0 parts of dimethyl ether and 24.7 parts of isopropyl alcohol for a total of 69.7 parts, which corresponds to approximately 69.7 wt% VOC component content. This percentage clearly exceeds the about 55 wt% ceiling for the VOC component in independent claim 1. The Office Action referred to isopropyl alcohol as a non-VOC component. However, the specification clearly refers to isopropyl alcohol as a VOC component (col. 8, lines 23 and 24 and col. 9, line 10).

Clearly, claims 1 to 12 and 16 to 24 are not anticipated by nor suggested by the Dohara patent.

Claims 1 to 9, 16, 20 to 22, and 24 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,303,091 to Mailander et al. (the Mailander Patent). Example F was said to relate to an insect repellent, a non-VOC ester, ether and isobutane (VOC), mineral spirits, and water.

Claims 1 to 9, 16, 20 to 22, and 24 patentably distinguish over the Mailander Patent. Independent claim 1 distinguishes the Mailander compositions on at least two grounds. First, independent claim 1 requires that the composition be applied to humans. The Mailander Patent does not specifically disclose application to humans. As an illustration, the examples in the Mailander Patent characterized their compositions as pesticides, insecticides, fungicides, livestock sprays, flying insect killers, garbage can spray, and space insecticides. Second, independent claim 1 requires the aerosol composition be a solution, suspension, or dispersion. The Mailander compositions relate only to emulsions (col. 1, lines 11 and 12 and col. 3, lines 68 to 73 and throughout).

Claims 1 to 11, 13, 15, 16, and 20 to 24 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,565,208 to Vlasborn (the Vlasborn Patent). The methods in the Vlasborn Patent were said to relate to a repellent, a non-VOC ethoxglate (sp?), a VOC dipropylene ether and limonene, and water.

Claims 1 to 11, 13, 15, 16, and 20 to 24 patentably distinguish over the Vlasborn Patent because independent claim 1 requires the composition be a solution, suspension, or dispersion. The composition of the Vlasborn Patent is an emulsion (col. 2, lines 18 to 29).

Claims 1 to 24 have been rejected under 35 U.S.C. 102(b) as being anticipated by, or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 4,970,220 to Chaussee (the Chaussee Patent). The Chaussee Patent is said to relate to aqueous-based aerosol compositions applied to the skin. Example XVIII is said to relate to a composition having the insect repellent DEET, a sunscreen, and stearyl alcohol-glyceryl stearate/PEG stearate film formers. The Chaussee Patent is said to relate to the addition of isobutane/propane to a base composition to use as an aerosol.

Claims 1 to 24 patentably distinguish over the teachings of the Chaussee Patent. Independent claim 1 requires the claimed aerosol composition be a solution, suspension, or dispersion. In contrast, Example XVIII of the Chaussee Patent relates to an insect repellent lotion in emulsion form.

Claims 1 to 24 have been rejected under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,916,541 to Stewart (the Stewart Patent) in view of the Vlasblom Patent or the Chaussee Patent and the Mailander Patent. The Stewart is said to provide sunscreen/insect repellent compositions having film formers for application to skin. Water and propylene glycol (Example 1) are said to be non-VOC phases. There was said to be no suggestion for convenient application means. The Vlasblom Patent and the Chaussee Patent are said to be representative of the use of compositions for insect repellency and sunscreen protection. The VOC of the Vlasblom Patent was said not to be expressed as the hydrocarbon propellants instantly utilized. However, the Chaussee Patent was said to show that as little as 5% of the propellant is effective. The Mailander Patent is said to further show the use of emulsifiers with pesticides/insect repellents utilizing the propellants in an aqueous-based

composition. It was said to obvious to use a combination of Stewart's sun/insect topical skin protectant as modified by the Chaussee Patent or the Vlasblom Patent and the Mailander Patent to provide easy application as an aerosol. The selection of amounts of ingredients was said to be obvious.

Claims 1 to 24 patentably distinguish over the combination of the Stewart Patent and any of the other cited patents. Independent claim 1 requires that the aerosol composition be a solution, suspension, or dispersion. In contrast, the Stewart Patent relates to sunscreen/insect repellent compositions in emulsion form (col. 4, lines 31 to 33). The combination of the Stewart Patent and any of the other cited patents will still result an emulsion composition. Thus, no combination can yield the claimed invention.

The claims also appear in the attachment referred to as **VERSION WITH MARKINGS TO SHOW CHANGES MADE**.

Reconsideration of claims 1 to 24 is deemed warranted in view of the foregoing, and allowance of those claims and new claims 25 to 33 is earnestly solicited.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Once amended) An [aerosol] insect repellent composition dispensable from an aerosol container, comprising:

an insect repellent in an amount effective to repel insects when applied to the skin; and

a cosmetically-acceptable aerosol vehicle to disperse and deliver the insect repellent active, the vehicle having

(i) a volatile organic compound (VOC) [VOC] component, the VOC component having a propellant; and

(ii) a non-volatile organic compound (non-VOC) [non-VOC] component,

wherein the VOC component is not greater than about 55 wt.% based on the total weight of the composition, and wherein the composition takes a form selected from the group consisting of a solution, a suspension, and a dispersion, and wherein the composition is applied to humans.

2. (Once amended) The composition of claim 1, wherein the VOC component is about 1 wt.% to about [about] 45 wt.% based on the total weight of the composition.

16.(Once amended) The composition of claim 1, wherein the [VOC component comprises a] propellant is present at [in an

amount] about 5 wt.% to about 20 wt.% based on the total weight of the composition.

18.(Once amended) The composition of claim 17, wherein the propellent is present at [VOC component comprises] about 1 wt.% to about 25 wt.% based on the total weight of the composition [of a propellant].

23. (Once amended) The method of claim 20, wherein the [vehicle] non-VOC component further comprises water in an amount about 5 wt.% to about 40 wt.% based on the total weight of the composition.

24. (Once amended) The method of claim 20, wherein the propellent is present at [vehicle further comprises] up to about 30 wt% [of a propellent].